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# *Military Code*

of

## SOUTH CAROLINA

1950



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ADJUTANT GENERAL  
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# **Military Code of South Carolina**

(Act 756 of 1950 as Amended)

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**Act No. 756 of 1950**

**AN ACT To Provide A Defense Force And A Military Code For South Carolina.**

BE IT ENACTED by the General Assembly of the State of South Carolina:

**SECTION 1: §§ 2885 thru 2966-17, 1942 Code, repealed—The Military Code—South Carolina Defense Force.**—That Articles 1 and 1-A of Chapter 3, Title 26, Code of Laws of South Carolina, 1942, relating to the militia, military code and defense forces of this State, be, and the same are hereby, repealed.

**SECTION 2: Act of Congress accepted.**—The Act of Congress approved June 3, 1916, entitled "An Act Making Further and More Effectual Provisions for the National Defense and for Other Purposes" and all acts amendatory thereof, is hereby accepted by the State of South Carolina, and the provisions of said act and amendments thereto are made a part of the military code.

**SECTION 3: Militia personnel—classes.**—The militia of the State of South Carolina shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, residing within this State, who shall be more than seventeen years of age, and except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into two classes, the national guard, and the unorganized militia.

**SECTION 4: Administration of militia.**—The Militia of the State not in the service of the United States shall be governed and its affairs administered pursuant to law by the Governor, as commander-in-chief, through the adjutant general's department, which shall consist of the adjutant general as its executive head and such other officers and such enlisted men and civilian employees as the Adjutant General shall from time to time prescribe.

**SECTION 5: National Guard.**—The National Guard of South Carolina shall consist of the commissioned officers, warrant officers, enlisted men, organizations, staffs, corps and departments of the regularly commissioned, warranted and enlisted militia of the State, organized and maintained pursuant to law.



**SECTION 6: Maintenance and government—adherence to federal laws and regulations—subject to call.**—The duty of maintaining and governing the National Guard not in the service of the United States rests upon the State respectively subject to the constitutional authority of Congress, but the prime object of the force is the national defense. Its efficiency as an agent for national defense necessarily depends upon systematic uniformity in the organization, composition, arms, equipment, training and discipline of its component parts. Its attainment of such uniformity and efficiency requires on the part of each State a rigid adherence to federal laws and regulations relating to the National Guard. THEREFORE, the Governor shall cause the National Guard of this State always to conform to all such federal laws and regulations as are now or may hereafter from time to time become operative and applicable, notwithstanding anything in the laws of this State to the contrary. The National Guard of South Carolina or any part thereof shall be subject to call for United States service at such times, in such manner, and such numbers as may from time to time be prescribed by the Congress of the United States.

**SECTION 7: Service of armed military forces from without State in the State.**—No armed military force from another State, Territory or District shall be permitted to enter the State for the purpose of doing military duty therein without the permission of the Governor, unless such force is part of the United States Army, or is acting under the authority of the United States government.

**SECTION 8: Governor or Adjutant General order National Guard into service—pay and allowances.**—In the event of war, insurrection, rebellion, invasion, tumult, riot, mob or body of men acting together by force with intent to commit a felony or to offer violence to persons or property or by force and violence to break and resist the laws of this State, or the United States, or in case of the imminent danger of the occurrence of any of said events, or in event of public disaster the Governor shall have power to order the National Guard of South Carolina or any part thereof into the active service of the State, and to cause them to perform such duty as he shall deem proper. The Governor shall also have power to order out the National Guard or any part thereof to preserve order and keep people within bounds at any large public assemblage PROVIDED, that such action shall be taken only upon written request of the

mayor of the city and the sheriff of the county within which said assemblage is to occur. In case the Governor shall be absent from the State, or unavailable for any reason, the authority herein bestowed shall pass to the Adjutant General of the State. Whenever the National Guard or any part thereof shall be ordered to active duty, the officers, warrant officers and enlisted men shall, during the period of such active duty, receive the same pay and allowances as provided for the United States Army.

**SECTION 9: Local commanding officer order into service in emergency.**—In the event of insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, occurring in the vicinity of the station of any organization or organizations of the National Guard of South Carolina whenever the exigencies of the situation are such as to render it impossible first to communicate with the Governor or the Adjutant General, the senior commanding officer of that station, upon request in writing signed by the sheriff of the county involved or officer acting in his stead, stating the facts and the nature of the service desired, may order out the organization or organizations at that station, or such portion thereof as he shall deem necessary, and cause them to perform such duty as the circumstances shall require, and such commanding officers shall immediately report what he has done and all of the circumstances of the case to the Governor, and it shall be deemed that the action was taken by order of the Governor.

**SECTION 10: Governor order unorganized militia into service.**—In event of or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, if the Governor shall have ordered into active service all of the available forces of the National Guard of South Carolina and shall consider them insufficient in numbers to properly accomplish the purpose, he may then in addition order out the unorganized militia or such portion thereof as he may deem necessary, and cause them to perform such military duty as the circumstances may require.

**SECTION 11: Penalty fail serve when ordered if physically fit.**—Every member of the militia who shall have been ordered out for either state or Federal service under the provisions of section 7, 8, or 9, and who shall refuse or wilfully or negligently fail to report at the time and place and to the officer designated in the order or to



the representative or successor of such officer shall be deemed guilty of desertion, and shall suffer such penalty as a general court-martial may direct, unless he shall produce a sworn certificate from a licensed physician of good standing that he was physically unable to appear at the time and place designated; PROVIDED, that any person chargeable with desertion under this section may be taken by force and compelled to serve.

**SECTION 12: Penalties for physician make false certificate of physical disability.**—Whenever any physician shall knowingly make and deliver a false certificate of physical disability concerning any member of the militia who shall have been ordered out or summoned for active service, such physician shall thereby forfeit forever his license and right to practice in this State and shall be deemed guilty of perjury.

**SECTION 13: Governor may proclaim state of insurrection.**—Whenever any portion of the militia is employed in aid of the civil authority, the Governor, if in his judgment the maintenance of law and order will thereby be promoted, may by proclamation declare the county or city in which the troops are serving, or any specified portion thereof to be in a state of insurrection.

**SECTION 14: Governor's personal staff at ceremonial occasion—military secretary to Governor.**—Whenever the Governor shall desire the attendance of a personal staff upon any ceremonial occasion, he shall detail therefor such officers as he may choose from the active list of the National Guard of South Carolina, resident in or nearest to the place where such ceremonies are to be held, and the officers detailed shall attend in uniform at the time and place designated and shall constitute the personal staff of the Governor for that occasion, reverting upon completion of such duty to their regular assignments. The Governor may appoint as his military secretary any officer of the United States Army detailed for duty with the militia of this State, and such officer shall have the rank of colonel and the title "Military Secretary to the Governor."

**SECTION 15: Active duty National Guard subject—aid render suppress civil riot—authority of civil and military officers.**—The National Guard shall not be subject to active duty other than specified drills, parades, practice marches, encampments, target practice, etc., except in case of war, or for preventing, repelling or suppressing



invasion, insurrection or riot, or of aiding civil officers in the execution of the laws, in which cases the commander-in-chief or local commander as provided for in sections 7 and 8 herein shall order out for active service, by draft or otherwise, as many of the national guard as necessity demands. When an armed force is called out for the purpose of suppressing an unlawful or riotous assembly, it must obey the orders in relation thereto of the civil officer calling it out, and render the aid required. The orders of the civil officer may extend to a direction of the general or specific object to be accomplished and the duration of service by the National Guard, but the tactical direction of the troops, the kind and extent of force to be used, and the particular means to be employed to accomplish the object specified by the civil officers are left solely to the officers of the National Guard.

**SECTION 16: Civil action or criminal prosecution against—not interfere with.**—No action or proceeding shall be prosecuted or maintained against a member of a military court, or officer or person acting under its authority or reviewing its proceedings, on account of the approval of imposition or execution of any sentence, warrant, writ, process or mandate of any military court, nor shall any officer or enlisted man be liable to civil action or criminal prosecution for any act done while in the discharge of his military duty, which act is in line of duty. Any person who unlawfully assaults, or fires at, or throws any missile at, against or upon any member or body of the National Guard or any civil officer, or other person lawfully aiding them, while on active duty in the State, or aiding in the enforcement of the laws under proper authority, shall be guilty of a misdemeanor, and on conviction shall be liable to imprisonment in the South Carolina State Penitentiary for a period of not more than two (2) years, in the discretion of the court.

**SECTION 17: Adjutant and Inspector-General—election—term—rank.**—There shall be an Adjutant and Inspector-General elected by the qualified electors of this State, at the same time and in the same manner and for the same term of office as other state officers. His rank shall be that of Major General.

**SECTION 18: Adjutant General — term — employees — expenses—bond—duties.**—The Adjutant General shall be ex-officio chief of staff. He shall hold office until his successor is elected and



qualified. He shall appoint the civilian employees of his department and may remove any of them at his discretion. The expenses of the adjutant general's department, necessary to the military service, shall be audited, allowed and paid as other military expenditures are audited, allowed and paid. Before entering upon his official duties, the adjutant general must execute an official bond running to the State of South Carolina in the penal sum of Ten Thousand (\$10,000.00) Dollars conditioned upon the faithful performance of his duties, said bond to be submitted to the Attorney General for approval and when approved to be filed in the office of the Secretary of State, the cost of said bond to be paid from the military fund of the State. The adjutant general shall obtain and pay for, from the military fund, surety company bonds running to the State of South Carolina covering all the officers of the National Guard of South Carolina responsible to the State for money or military property, such bond or bonds to be approved and filed in the same manner as the adjutant general's bond.

(1) The Adjutant General shall keep rosters of all active, inactive and retired officers of the militia of the State, and keep in his office all records and papers required to be kept and filed therein, and shall submit to the Governor each year a printed annual report of the operations and condition of the National Guard of South Carolina.

(2) On the first of July of each year, he shall make a statement of the condition of the military fund, showing the amount thereof and setting forth in detail all receipts from whatsoever source and all expenditures of whatsoever nature and unexpended balance thereof.

(3) He shall cause the military law, the regulations of the National Guard of South Carolina and such other military publications as may be necessary for the military service to be printed, indexed and bound at the expense of the State and distributed to the commissioned officers of the National Guard of South Carolina.

(4) He shall keep and preserve the books, arms, accouterments, ammunition and other military property belonging to the State, not properly issued.

(5) He shall keep just and true accounts of all moneys received and disbursed by him.

(6) He shall attest all commissions issued to military officers of this State.

(7) He shall make out and transmit all militia reports, returns and communications prescribed by acts of Congress or by direction of the war or navy department.

(8) He shall have a seal, and all copies, orders, records and papers in his office, duly certified and authenticated under said seal, shall be evidenced in all cases in like manner as if the originals were produced. The seal now used in the office of the Adjutant General shall be the seal of his office and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with said seal.

(9) He shall make such regulations pertaining to the preparation of reports and returns and to the care and preservation of property in possession of the State for military purposes, whether belonging to the State or the United States, as in his opinion the conditions demand.

(10) He shall attend the care, preservation, safekeeping and repairing of the arms, ordnance, accouterments, equipment and all other military property belonging to the State, or issued to the State by the government of the United States for military purposes and keep accurate accounts thereof. All military property of the State, which after proper inspection, shall be found unsuitable for use of the State shall be disposed of in such manner as the Governor shall direct and the proceeds thereof paid into the military fund of the State.

(11) He shall issue such military property as the necessity of the services require and make purchases for that purpose. No military property shall be issued or loaned, except upon an emergency, to persons or organizations other than those belonging to the National Guard of South Carolina except to such portions of the unorganized militia as may be called out by the Governor.

(12) He shall keep an file in his office the reports and returns of troops and heads of military departments, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

(13) He shall keep all records of South Carolina forces commissioned or enlisted for World Wars I and II, Indian War, Spanish-American War, and all other wars or insurrections and of individual claims of citizens of South Carolina for service rendered in these wars or insurrections.



(14) He shall establish and maintain as part of his office a bureau or records of the services of the South Carolina troops during said wars, and he shall be the custodian of all records, relics, trophies, colors and histories relating to such wars now in possession of, or which may be acquired by the State of South Carolina, and such records, relics, trophies, colors and histories shall be catalogued and arranged or filed for general reference or protection in the office of the Adjutant General.

**SECTION 19: Adjutant and Inspector-General — vacancy — Inspector-General—rules and regulations—property and disbursing officer—armorer.**—If a vacancy occurs in the office of the adjutant and inspector-general, whether from death, resignation, disqualification or other cause, the Governor has the power to appoint some suitable person who shall be an active officer of the National Guard of South Carolina, to fill out the unexpired term of the former incumbent, who, on being duly qualified, shall be subject to all the duties and liabilities incident to the office and receive the compensation provided by law for the adjutant general during his term of service.

(1) There shall be an inspector-general, with the rank of colonel, who shall be assistant to the adjutant and inspector-general, and shall be appointed and commissioned by the Governor upon the recommendation of the adjutant general at such salary as may be provided by the annual appropriation act. The assistant to the adjutant general shall aid the adjutant general by the performance of such duties as may be assigned to him, and shall, in case of absence or inability of the adjutant general, perform all duties of the adjutant general.

(2) The adjutant general, with the approval of the commander-in-chief, is hereby authorized to make such rules and regulations, not in conflict with the laws of this State, from time to time as he may deem expedient, which when promulgated, shall have full force and effect as the military code of the State. But the rules and regulations in force at the time of the passage of this article shall remain in force until new rules and regulations are approved and promulgated.

(3) The Governor shall appoint, designate or detail on the recommendation of the adjutant general, subject to the approval of the secretary of war, an officer of the national guard, with the rank of colonel, who shall be regarded as property and disbursing officer for the United States. He shall receipt and account for all funds and property belonging to the United States in possession of the



national guard and shall make returns and reports concerning the same as may be required by the secretary of war. The secretary of war is authorized, on the requisition of the Governor, to pay to the property and disbursing officer so much of its allotment out of the annual appropriation for the support of the national guard as shall, in the judgment of the secretary of war, be necessary for the purposes enumerated therein. He shall render, through the war department, such accounts of federal funds entrusted to him for disbursement as may be required by the treasury department. Before entering upon the performance of his duties as property and disbursing officer, he shall be required to give good and sufficient bond to the United States, the amount thereof to be determined by the secretary of war, for the faithful performance of his duties and for the safe-keeping and proper disposition of the federal property and funds entrusted to his care. He shall, after having qualified as property and disbursing officer, receive pay for his services at a rate to be fixed by the secretary of war, and such compensation shall be a charge against the whole sum annually appropriated for the support of the national guard; PROVIDED, that when traveling in the performance of his official duties, under orders issued by the proper authorities, he shall be reimbursed for his actual necessary traveling expenses, the sum to be made a charge against the allotment of the State; PROVIDED, FURTHER, that the secretary of war shall cause an inspection of the accounts and records of the property and disbursing office to be made by an inspector general of the army at least once each year, AND PROVIDED, FURTHER, that the secretary of war is empowered to make all rules and regulations necessary to carry into effect the provisions of this section. His compensation from the State for services as property and disbursing officer shall be provided in the annual appropriation act.

(4) The Adjutant General shall appoint a armorer, whose salary shall be provided in the annual appropriation act. The armorer shall be required to work daily upon state and federal property in the armories, warehouses or elsewhere, and shall be authorized to call for and obtain convict labor from the state penitentiary to work at the said armories and warehouses whenever necessary.

**SECTION 20: Commissioned and warrant officers—appointment—term.**—All commissioned and warrant officers of the National Guard of South Carolina shall be appointed and commissioned or



warranted by the Governor. No person shall be appointed and commissioned or warranted unless he shall be a citizen of the United States and of this State and more than twenty-one years of age. Every commissioned and warrant officer shall hold office under his commission or warrant until he shall have been regularly appointed and commissioned or warranted to another grade or office, or until he shall have been regularly retired, discharged, dismissed or placed on inactive status.

**SECTION 21: Appointment probationary and revocable for 1 year—certification—examinations—acceptance of same or lower grade.**—Every appointment of any person as a commissioned or warrant officer in the National Guard of South Carolina shall be probationary and revocable by the Governor at will, for a period of one year next after such appointment, and at the expiration of such period shall be revoked or made permanent by the Governor; **PROVIDED**, that if the appointee shall have qualified in compliance with the United States law or regulations during said probationary period, his commission or warrant shall upon such qualification, be no longer probationary or revocable in that grade; **PROVIDED, FURTHER**, that any officer or appointee in the National Guard of South Carolina who holds either a permanent or probationary commission therein, and who has not been certified as fully qualified for his grade after examination under the United States authority, may be retained as such permanent or probationary officer, and required to take the next succeeding United States examination for his grade. If he is not certified after such second examination, he shall be immediately honorably discharged by the Governor, unless a position vacancy for which the said officer shall be qualified in the same or a lower grade exists. But the officer will not be required to accept such position except by his own consent.

**SECTION 22: Vacancy in junior commissioned office or warrant office of a company.**—Whenever a vacancy shall have occurred in the junior commissioned office or warrant office of any company or similar unit of the National Guard of South Carolina, the person to be appointed and commissioned to fill such vacancy shall be selected by competitive examination from the eligible enlisted men of the unit. Eligibility shall be determined by the rules and regulations of the War Department and the National Guard Bureau.

**SECTION 23: Vacancy in grade of captain or first lieutenant in a company.**—Whenever a vacancy shall have occurred in the grade of captain or first lieutenant in a company or similar unit of the National Guard of South Carolina, the vacancy shall be filled by the promotion of the senior officer of the next lower grade of the same organization, subject to examination as prescribed by the War Department.

**SECTION 24: Vacancy in grade of major, lieutenant colonel, or colonel in a regiment.**—Whenever a vacancy shall have occurred in the grade of major, lieutenant colonel or colonel in a regiment or similar unit of the National Guard of South Carolina, including a separate battalion, the senior officer of the next lower grade within the unit will be tendered the position, subject to examination as prescribed by the War Department. Should the said officer decline the position, the same will be tendered to the successive officers below him in the unit in order of seniority.

**SECTION 25: Vacancy in grade of general officer.**—Whenever a vacancy shall have occurred in the grade of general officer in the National Guard of South Carolina it shall be filled by the promotion of the senior officer of the next lower grade, either general officer or field grade officer whichever is applicable, subject to examination as prescribed by the War Department. Should the senior officer decline or fail to qualify, the same will be tendered to the successive officers below him in order of seniority.

**SECTION 26: Vacancy in commissioned staff of a regiment.**—Whenever a vacancy shall have occurred in the commissioned staff of a regiment or similar unit, a battalion or similar unit of the National Guard of South Carolina, the senior officer in the organization of the grade specified by the vacancy will be offered the position. If the senior officer in that grade declines, the next senior of that grade, and so on lineally in order of seniority, will be offered the position until the vacancy is filled.

**SECTION 27: Vacancy in general staff corps of a division staff—vacancy in special or technical staffs.**—Whenever a vacancy shall have occurred in the General Staff Corps of a division staff or similar unit, the vacancy shall be filled by the promotion of the next junior officer in the respective section of the General Staff Corps, if qualified, and upon recommendation of the senior division officer resident



of the state. Vacancies within the General Staff Corps that cannot be filled as prescribed above will be filled by the selection of the next qualified officer in the order of seniority, as shown by the relative rank of all officers on the active list of the National Guard of South Carolina, and with similar recommendation. Vacancies occurring in the Special and Technical Staffs of a division or similar unit will be filled by the promotion of the next senior officer in the branch in which the vacancy exists.

**SECTION 28: Vacancy in commissioned staff of headquarters and headquarters detachment.**—Whenever a vacancy shall have occurred in the commissioned staff of the Headquarters and Headquarters Detachment, other than the junior commissioned office or warrant office, the vacancy shall be filled by the promotion of the next junior officer within the Headquarters, or by the transfer of commissioned personnel selected by the Adjutant General from other units of the National Guard. Vacancies in the junior commissioned office or warrant office will be filled by eligible enlisted men of the Headquarters and Headquarters Detachment, in the same manner as prescribed within companies or similar units.

**SECTION 29: Officer waive right to seniority promotion.**—Any officer of the National Guard of South Carolina may, in writing, waive his right to any promotion to which his seniority shall entitle him, in which event the next senior officer who shall not in writing have waived such promotion shall be entitled thereto.

**SECTION 30: Commissioned or warrant officer—oath—bond.**—Every officer, duly commissioned or warranted shall within such time as may be provided by law or by regulation, take the oath of office prescribed by law, and give bond, if required. In case of neglect or refusal to do so, he shall be considered to have resigned such office and a new appointment may be made as provided by law.

**SECTION 31: Oath.**—The oath of office for commissioned and warrant officers in the National Guard of South Carolina shall be substantially as follows: "I—do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of South Carolina against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and the Governor of the State of South Carolina; that I make



this obligation freely, without any mental reservation or purpose of evasion and that I will well and faithfully discharge the duties of the office of——— in the National Guard of the United States and of the State of South Carolina upon which I am about to enter, so help me God.”

**SECTION 32: Dismissal—discharge—resignation.**—The Governor may dismiss any commissioned or warrant officer of the National Guard of South Carolina for any of the following reasons: (1) Conviction of an infamous crime; (2) Absence from his command for more than thirty days without proper leave; (3) Sentence of dismissal by court-martial, duly approved. And the Governor may discharge any commissioned or warrant officer of the National Guard of South Carolina for any of the following reasons: (1) Upon muster out of the organization to which such officer is then assigned; (2) Acceptance of the resignation of such officer; PROVIDED, that no officer shall be discharged or his resignation accepted while under arrest or against whom military charges have been preferred, or until he shall have turned over to his successor or satisfactorily accounted for all state and federal moneys and military property for which he shall be accountable or responsible; (3) Removal of his actual residence to such distance from the station of his command as to render it impracticable for him to perform the duties of his office.

**SECTION 33: Relative rank of officers.**—Upon the date this Article becomes effective, or as soon thereafter as practicable, it shall be the duty of the Adjutant General to assign to each commissioned officer on the active list of the National Guard of South Carolina, a number, assigning to the senior officer of each grade number one and continuing lineally thereafter in each grade in order of seniority as of the effective date of State commission in the grade held by each officer on the day this Article becomes effective. Thereafter the seniority in any given grade shall be determined by the effective date of State commission in that grade. When effective date of State commission in any given grade is the same for two or more officers, seniority shall be governed by the relative rank in the preceding grade or grades, successively and in inverse order. When two or more officers are given an original appointment to any grade in the National Guard of South Carolina, with the same effective date, relative rank of such officers will be determined according to age, the elder being the senior. The Adjutant General shall also assign each



commissioned officer on the retired list a number in the same manner as for active officers.

**SECTION 34. Retirement of officers—rank on active duty.—**

Commissioned officers of the National Guard of South Carolina shall be retired by order of the commander-in-chief with a promotion of one grade, effective the date of retirement:

(1) Upon reaching the age of sixty-four (64) years.

(2) At the request of an officer upon completion of twenty (20) or more years of honorable service in the National Guard of South Carolina and the Armed Forces of the United States; PROVIDED, that any officer holding the grade of Major General, shall, upon retirement, be retired in that grade. Retired officers shall draw no pay or allowance except when on duty. They shall be subject to temporary detail by the commander-in-chief, and while on such duty shall receive the same pay and allowances as officers of the same rank on the active list. On all occasions of duty or ceremony retired officers shall take rank below officers of the same grade on the active list.

**SECTION 35. Terms of enlistment.—**An original enlistment in the National Guard shall be for a period of three (3) years, except that persons who have served in the army for not less than six (6) months, and have been honorably discharged therefrom, may, within two (2) years after the passage of the national defense act as approved June 4, 1920, enlist in the National Guard for a period of one (1) year and reenlist for like period, subject to such changes and regulations as may be prescribed by the War Department.

**SECTION 36. Discharge or transfer of enlisted men.—**An enlisted man discharged from the service of the National Guard of South Carolina shall receive a discharge in writing in such form and of such classification as is or shall be prescribed by law or regulations, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as may be prescribed by competent authority, an enlisted man may be transferred upon his own request from one unit of the National Guard of South Carolina to another by the Adjutant General of South Carolina; PROVIDED, that the transfer is approved by the commanding officers of the units involved.



**SECTION 37: Uniform and equipment of officer.**—Every commissioned officer of the National Guard of South Carolina shall within sixty days from the date of the order whereby he shall have been appointed, provide himself at his own expense, with the uniform and equipment prescribed by the Governor for his rank and assignment.

**SECTION 38: Issued property.**—All property issued to organizations and members of the National Guard of South Carolina shall be and remain public property.

**SECTION 39: Uniforms and equipment of members exempt from execution and taxation.**—The military uniforms, arms, equipment and mounts of members of the National Guard of South Carolina shall be exempt from execution and taxation.

**SECTION 40: Military board—appointment—terms—apportionment of appropriations—property shortage.**—There shall be for the State a military board, consisting of the Governor, the Adjutant General and three commissioned officers of the National Guard, who shall be appointed by the Governor. (In the first instance one member shall be appointed for one year, one for two years, and one for three years, and thereafter members of the military board shall be appointed for three years). It shall be the duty of the military board to apportion the annual appropriation for the maintenance of the militia and to determine what organizations or purposes are entitled by law to share in said appropriation. No company, troop, battery, division, detachment or band shall participate in the annual allotment of such appropriation for the maintenance of the militia unless the proper officers of such organizations shall have rendered the required reports and returns for the preceding year, and such organization participated in the required camp of instruction or was excused by proper authority. It shall be the duty of the Adjutant General to prepare a list of the government property, Federal and State, that is short in each organization at its annual inspection. The cost of such property found short in each organization shall be deducted from the annual allotment made by the military board to that particular organization, and the amount so deducted shall be expended by the Adjutant General in the purchase of new property of like kind and quality. It shall be the duty of the Adjutant General in such cases to order a board of inquiry to inquire into the responsibility



of such losses, and whenever it shall appear from the findings of such board of inquiry that the losses are due to the fault or negligence of the responsible officers, it shall be the further duty of the Adjutant General to enter or cause to be entered a suit on the bond of such officer. The Adjutant General shall incorporate in his annual report a statement showing the property shortage of each organization, the amount paid by each organization for such property shortage, the disposition made of the funds so collected and any further action that may have been taken by him with reference to fixing the responsibility thereof and recovering the property so found short or its value.

**SECTION 41: Claims—Audit—payment—interest on warrants.—**

All bills, claims and demands against the military fund shall be certified or verified in the manner prescribed by regulations promulgated by the Governor and shall be audited by the proper board of military auditors, and, if allowed, shall be paid by the State Treasurer upon the warrant of the Adjutant General from the military fund; PROVIDED, HOWEVER, that in all cases where the National Guard, or any part thereof, is called into the service of the State in case of war, riot, insurrection, invasion, breach of the peace, or in aid of the civil authorities, warrants for allowed pay and expenses for such service shall be drawn upon the general fund of the State treasury and paid out of any moneys in said fund not otherwise appropriated. All military warrants shall be the obligation of the State and shall bear interest at the legal rate from the date of their presentation for payment.

**SECTION 42: Penalties purchase or receive in pledged military property.—**If any person shall purchase or receive in pawn or pledge any military property of the State of South Carolina or of the United States, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to imprisonment for a period not exceeding one (1) year, or fined not exceeding One Thousand (\$1,000.00) Dollars, or to both such fine and imprisonment.

**SECTION 43: Members wounded or disabled—care—pension.—**

Every member of the National Guard of South Carolina who shall be wounded or disabled while on duty in the service of the State, or while reasonably proceeding to or returning from such duty, shall be taken care of and provided for at the expense of the State, and, if permanently disabled, shall receive the like pensions or re-

wards that persons under similar circumstances in the military service of the United States receive from the United States; PROVIDED, that no pension shall be granted by the State of South Carolina for any disability received while in the service of the United State or while proceeding to or returning from such service. Before the name of any person is placed upon the pension roll under this Section proof shall be made, under such regulations as the Governor may from time to time prescribe, that the applicant is entitled to such pension.

**SECTION 44: Civil arrest—right of way on streets—occupancy of lands—free passage thru toll bridges.**—No person belonging to the military forces of this State shall be arrested under any civil process while going to, remaining at, or returning from any place at which he may be required to attend military duty. Any member of the National Guard parading, or performing any duty according to the law shall have the right-of-way in any street or highway through which they may pass and while on field duty shall have the right to enter upon, cross or occupy any uninclosed lands, or any inclosed lands where no damage will be caused thereby; any person belonging to the military forces of the State going to, or returning from any parade, encampment, drill or meeting which he may be required by law to attend, shall be allowed to pass free through all toll gates and over all toll bridges and ferries PROVIDED, that the carriage of the United States mail and the legitimate functions of the police and the progress and operations of fire departments shall not be interfered with hereby.

**SECTION 45: Penalties interfere in employment or trade of member or person enlisting.**—A person, who either by himself, or with another, wilfully deprives a member of the National Guard of South Carolina of his employment or prevents, by himself or another such member being employed, or obstructs or annoys said member or his employer in his trade, business or employment, because he is such a member or dissuades any person from enlisting in said National Guard by threat or injury to him in his employment, trade or business, in case he shall so enlist, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in a sum not exceeding One Hundred (\$100.00) Dollars or imprisoned in the county jail for not more than thirty (30) days.



**SECTION 46: Penalties for clubs to discriminate against members.**

—No club, society, association, corporation, or organization shall by any constitution, rule, by-laws, resolution, vote or regulation, or otherwise discriminate against any member of the National Guard of South Carolina because of his membership in said National Guard, in respect to his eligibility to membership in such club, society, association, corporation or organization, or in respect to his rights to retain and exercise the rights of membership therein. Any person, or persons, club, society, association, corporation, or organization violating or aiding, abetting or assisting in the violation of any provisions of this Section shall be guilty of a misdemeanor, any anyone convicted thereof shall be fined in any sum not exceeding One Hundred (\$100.00) Dollars, or imprisoned in the county jail for a period not exceeding thirty (30) days.

**SECTION 47: Leave of absence for public employees attending encampments or on active duty.**—Officers and employees of the State of South Carolina, and departments and subdivisions thereof, shall be entitled to military leave without loss of pay, seniority or efficiency rating, when attending National Guard encampments or schools for training, under proper authority, and on all other occasions when ordered to active duty, in the service of the State of South Carolina.

**SECTION 48: Unit personnel organize corporation for social purposes—disposition of property on dissolution—property of unit unincorporated.**—The officers, or the officers and enlisted men of any regiment, battalion, company or similar unit of the National Guard of South Carolina are hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, acquiring and disposing of such property, real and personal, as such military organizations may possess or acquire. Such corporation shall not engage in business and shall not be required to pay any filing or license fee to the State. The dissolution or disbandment of any such unit as a military organization shall not operate to terminate existence of the corporation, but the existence of the same shall continue for the period limited in its articles of incorporation for the benefit of such corporation. Upon the dissolution or disbandment of any such unit which shall not have incorporated, and which shall at the time of such dissolution or disbandment possess any funds or property, the title to such funds or property shall immedi-



ately vest in the State of South Carolina, and the Adjutant General shall take possession thereof and dispose of the same to the best interest of the National Guard of South Carolina.

**SECTION 49: Unit maintenance fund allowance.**—Each unit shall be entitled to such maintenance fund allowance as may be provided in the annual appropriation act or apportioned by the military board, and the said fund shall be payable semi-annually, the first allotment to be paid on July 1st and the second allotment on January 1st.

**SECTION 50: Travel—subsistence.**—There shall be provided by the State, transportation for all officers, and transportation and subsistence for all enlisted men who shall be ordered out for encampment, field duty, or stated parades, or assembled for duty in case of riot, tumult, breach of the peace, war, insurrection, invasion or imminent danger thereof. Necessary transportation, quartermaster's stores and subsistence for troops when ordered on duty shall be contracted for by the proper officers and paid for as other military bills.

**SECTION 51: Authority of commanding officer—penalties for trespass, molestation, interference, selling whiskey or gambling.**—The commanding officer at any drill, parade, encampment, or other duty, may cause those under his command to perform any military duty he shall require, and may place in arrest from the time of such drill, parade, encampment, or other duty, any officer or enlisted man who shall disobey the orders of his superior officer, or in any way interrupt the exercises and any other person or persons who shall trespass on the camp grounds, parade grounds, rifle range or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those on duty, or shall disturb or prevent the passage of troops going to or returning from any regularly ordered tour of duty; and he shall prohibit and prevent the sale or use of all spirituous liquors or wine, or holding of huckster or auction sales, and all gambling, and he shall remove disorderly persons beyond the limits of such parade or encampment. Any person guilty of any offense mentioned in this Section, or any order issued in pursuance thereof, shall be guilty of a misdemeanor and may be delivered at or before the termination of such duty to any peace officer, and shall be brought before the nearest court of competent jurisdiction for trial, and, upon conviction, shall be fined not more than One Hundred (\$100.00) Dollars, or imprisoned not more than thirty (30) days.



**SECTION 52. Orders for duty—warning—returns.**—Orders for duty may be oral or written. Officers and enlisted men may be warned for duty as follows: either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his last known place of abode or business, with some person of suitable age and discretion or by delivery to such man by mail directed to him at his last known place of abode or business. Orders may be transmitted by telegram or telephone. Such warnings may be given by any officer or enlisted man. Any officer or enlisted man giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath, and shall be prima facie evidence on the trial of any person returned as a delinquent, of the facts therein stated.

**SECTION 53: Military tribunals.**—The military tribunals of the State of South Carolina shall be two kinds, viz: (1) courts-martial for the trial of offenders against the military law, and (2) courts of inquiry for examination of transactions of accusations or imputations against officers or enlisted men of the National Guard of South Carolina. All such courts shall be composed of commissioned officers only. All commissioned officers of the National Guard of South Carolina shall be eligible for detail to such courts, but no officer will be detailed for the trial of an officer superior to himself in rank when it can be avoided.

**SECTION 54: Classes of military courts—jurisdiction—term.**—The military courts of the National Guard of the State of South Carolina shall be of the following classes: (1) General courts-martial. (2) Special courts-martial. (3) Summary courts-martial. They shall be respectively constituted like, and have cognizance of the same subjects and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations of the United States. They may be convened by order specifying that they shall sit either for the trial of specified offenses or offenders or for the trial of all offenses or offenders that may be lawfully brought before them either during a specified period of time or until further orders of the convening or superior authority.

**SECTION 55: General courts-martial—personnel—jurisdiction.**—General courts-martial may be convened by order of the Governor



and may consist of any number of officers from five to fifteen, inclusive. The decision of the appointing authority as to the number of officers to compose such court shall be conclusive. When from any cause a general court-martial is reduced below the minimum of five officers, the remaining number will direct the judge advocate to report the fact to the convening authority and await further orders. Such courts shall have the power and jurisdiction to impose fines not exceeding Two Hundred (\$200.00) Dollars; to sentence to forfeiture of pay and allowance; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of non-commissioned officers to the ranks; to reduction in rank or rating; or any two or more of such punishments may be combined in the sentence imposed by such courts.

**SECTION 56: Special courts-martial—personnel—jurisdiction.**—In the National Guard of South Carolina the commanding officer of each garrison, post, camp or other place, brigade, regiment, detachment, battalion, or other detached command may appoint special courts-martial for his command but such special court-martial may in any case be appointed by a superior authority when the latter deemed desirable. Special courts-martial shall have the power to try any person subject to military law, except a commissioned officer, for any crime or offense within its jurisdiction made punishable by the military laws of the United States or the State of South Carolina, and such special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed by such special courts-martial shall not exceed One Hundred (\$100.00) Dollars. Such special courts-martial shall consist of any number of commissioned officers from three to five, inclusive.

**SECTION 57: Summary court—jurisdiction.**—The commanding officer of each garrison, fort, post or other place, regiment or corps, detached battalion, company or other detachment of the National Guard of South Carolina, may appoint for such place of command a summary court to consist of one officer, who shall have power to administer oaths and to try enlisted men of such place or command for breaches of discipline and violation of laws governing such organizations, and said court when satisfied of the guilt of any such soldier, may impose fines not exceeding Twenty-five (\$25.00) Dollars for any single offense and may sentence to forfeiture of pay and allowance in said amounts. The proceedings of such court shall be



informal, and the minutes thereof shall be the same as prescribed for similar courts of the regular courts of the army of the United States.

**SECTION 58: Fines—collection—use.**—The amount of any fine imposed under sentence of any courts-martial on any member of the National Guard of South Carolina may be collected from him or may be deducted from any amount due said member as pay of any character whatsoever, and all such fines so collected or withheld shall be paid to the commanding officer of the company, detachment or unassigned unit to which the person so fined belongs, and shall constitute a portion of the military fund for such organization.

**SECTION 59: Imprisonment.**—All military courts of the National Guard of South Carolina shall have power to sentence to confinement in lieu of fines authorized to be imposed PROVIDED, that such sentence of confinement shall not exceed one day for each dollar of fine authorized, and no summary court shall sentence to confinement in excess of thirty (30) days.

Sentence of imprisonment imposed by courts-martial upon persons not in active service shall be to such city, or county jail as shall be designated by the reviewing authority.

When a fine shall have been assessed by a court-martial against a member of the National Guard of South Carolina to whom no pay is due or about to become due, and the proceedings of the court shall have been approved by the reviewing authority, the reviewing authority in the case of general or special courts-martial, or the summary court officer in the case of summary courts-martial, shall issue a writ in the following form:

STATE OF SOUTH CAROLINA - - - - COUNTY, SS  
THE STATE OF SOUTH CAROLINA.

To any sheriff or constable in the State, Greeting:

WHEREAS, \_\_\_\_\_ of \_\_\_\_\_ in the  
County of \_\_\_\_\_ a member of the National Guard  
of South Carolina, was, on the \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
19\_\_\_\_ tried and found guilty of \_\_\_\_\_ in  
violation of \_\_\_\_\_ and was by court-martial  
sentenced to \_\_\_\_\_, and,



WHEREAS, such fine has not been paid,

NOW, THEREFORE, by authority of the State of South Carolina, you are hereby commanded to take the body of the said \_\_\_\_\_ and commit it to the keeper of the jail in the \_\_\_\_\_ County of \_\_\_\_\_ within the said jail, who is hereby commanded to receive the body of the said \_\_\_\_\_, and keep him safely until he pays the sum above mentioned and your costs accrued, or shall have served one day for each dollar of said fine and costs, after which time he shall be released.

Fail not but service and return make within sixty days from this date.

Dated at \_\_\_\_\_ in the County of \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

**SECTION 60: Dismissal or dishonorable discharge Governor approve.**—No sentence of dismissal or dishonorable discharge from the service of the National Guard of South Carolina not in the service of the United States imposed by any military court, shall be executed until approved by the Governor.

**SECTION 61: Jurisdiction of military courts.**—Military courts shall have jurisdiction, subject to the limitations imposed by law, at all times and in all places, over officers and enlisted men of the National Guard of South Carolina, and over members of the unorganized militia of South Carolina, who shall be under order for military duty for all military offenses.

**SECTION 62: Authority of presidents of courts-martial and summary court officers—depositions—subpoenae—penalties—witness not incriminate self.**—Presidents of courts-martial and summary court officers shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order together with copy of the charge or charges in writing from the convening authority to appear before such court, which has been delivered to the accused; to issue subpoenas and subpoenas duces tecum, and to enforce by detachment attendance of witnesses, both civil and military, and to require the production of all books and papers and to sentence for a refusal to be sworn or to answer as provided for in actions before civil courts. All of such courts shall also have power to take or cause to be taken



the depositions of witnesses to the same extent as have the superior courts of the State of South Carolina. Every judge advocate of a military court shall have the same power to issue subpoenas and subpoenas duces tecum that as is possessed by the attorney of record of any party to an action pending before the Superior Court of the State of South Carolina and such military court shall have the same authority to enforce obedience to such subpoenas as is possessed by the Superior Courts of the State of South Carolina; and it shall be the duty of the prosecuting attorney of any county, on the certification of the facts to him by the president or senior member of the court, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment not to exceed six (6) months, or both, at the discretion of the court; PROVIDED, that no witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him.

**SECTION 63: Processes and mandates.**—Military courts are empowered to issue all processes and mandates including writs and warrants necessary and proper to carry into full effect the powers vested in said courts. Such writs and mandates may be directed to the Sheriff of any county or the Constables or Marshals of any precinct, city or town, and shall be in such form as may, from time to time be prescribed in South Carolina.

**SECTION 64: Attendance of witnesses—production of records—contempt—depositions.**—Every military court shall have the same power to compel by subpoenas, by subpoenas duces tecum, and by attachment the attendance of witnesses, both civilian and military, and the production of books, papers and documents, and to punish for contempt a witness only subpoenaed for non-attendance or refusal to be sworn to testify, or to produce books, papers, and documents as is possessed by the Circuit Courts of this State. Military courts shall also have power to take or cause to be taken the depositions of witnesses who cannot reasonably be produced at the trial to the same extent as the Circuit Courts aforesaid.

**SECTION 65: Non-member as witness—contempt—execution and return of process—jailors—credit imprisonment on fine.**—Any person not belonging to the National Guard of South Carolina who

having been duly subpoenaed to appear as a witness before a military court and wilfully neglected or refused to appear, or refused to qualify as a witness, or to testify or produce documentary evidence which such person shall have been legally subpoenaed to produce, shall be guilty of contempt. It shall be the duty of every Sheriff, Constable or Jailor who shall have received a lawful writ, mandate, subpoena or other process of any regulation to forthwith execute the same and make return of their acts thereunder according to the requirements of such process or mandate. The keepers and wardens of all county and city jails shall receive such persons committed by the process or mandate of any military court and shall confine them in the manner prescribed thereby and according to law. Any person may be committed to any county or city jail for failure to pay any fine under this article and when so committed shall be credited upon each fine with the sum of One (\$1.00) Dollar for each day so confined.

**SECTION 66: Penalty for disorderly or contemptuous conduct during court.**—Any person who shall be guilty of disorderly, contemptuous or insolent behavior in, or who shall use any insulting or contemptuous, or indecorous language or expression to or before any military court, or to any member of such court, in open court, tending to interrupt its proceedings, or to impair the respect due to its authority, or who shall commit any breach of the peace, or make any noise or other disturbance, directly tending to interrupt its proceedings, may be committed by warrant under the hand of the president of the court, to the jail of the city or county in which said court shall sit, there to remain without bail in close confinement, for a definite time not exceeding three (3) days.

**SECTION 67: Fees and mileage for service of process and civilian witnesses—expenditures authorized.**—Fees and mileage allowed for the service of process and for civilian witnesses shall be the same as in civil actions. All expenditures necessary to carry the provisions of this article into effect are hereby authorized to be incurred, and paid out of the appropriation for the maintenance of the National Guard of South Carolina.

**SECTION 68: Definitions.**—Wherever used in the military code of South Carolina, and throughout this article the word "officer" shall be understood to include commissioned officers only. The words



"enlisted men" shall be understood to designate members of the National Guard of South Carolina other than commissioned. The word "company" shall be understood to include a troop, battery or detachment of the hospital corps.

**SECTION 69: Articles of government—penalties violate.**—The National Guard of South Carolina shall be governed by the following articles:

(1) Any officer who knowingly musters as an enlisted man a person who is not an enlisted man shall be deemed guilty of knowingly making a false muster, and punished accordingly.

(2) Any officer who knowingly makes a false return to any of his superior officers authorized to call for such returns, of the state of the organization under his command, or of the arms, ammunition, clothing or other stores for which he shall be responsible or accountable, shall on conviction thereof before a court-martial, be dismissed.

(3) Every officer shall be charged with the arms, accouterments, ammunition, clothing and other military stores for which he shall have given his receipt in writing, and shall be responsible in case of their being lost, spoiled or damaged otherwise than by unavoidable accident, or in actual service.

(4) Any officer who signs a false certificate relating to the absence or pay of an officer or enlisted man shall upon conviction by the proper court be dismissed from the service.

(5) Any officer who knowingly makes a false muster of man or horse, or who signs or directs or allows the signing of any muster roll, knowing the same to contain a false muster shall, upon proof thereof by two witnesses before a court-martial, be dismissed from the service, and shall thereby be disbarred from holding any office or employment in the service of the State of South Carolina.

(6) Any officer, who wilfully or through neglect suffers to be lost, spoiled or damaged, any military stores belonging to the United States or the State of South Carolina, shall make good the loss or damage, and shall suffer such punishment as a court-martial may direct.

(7) Any enlisted man who sells, or wilfully, or through neglect wastes the ammunition delivered to him shall be punished as a court-martial may direct.



(8) Any enlisted man who sells, or through neglect loses or spoils any military property of the United States or the State of South Carolina, shall be punished as a court-martial may direct.

(9) Any officer or enlisted man who behaves himself with disrespect toward his commanding officer shall be punished as a court-martial may direct.

(10) Any officer or enlisted man who, on any pretense whatsoever, strikes his superior officer or draws or lifts up any weapon or offers any violence against him, being in the execution of his office, or disobeys any lawful command of his superior officer, shall suffer such punishment as a court-martial may direct.

(11) Any officer or enlisted man who begins, excites, causes or joins in any mutiny or sedition, shall suffer such punishment as a court-martial may direct.

(12) Any officer or enlisted men who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or having knowledge of any intended mutiny or sedition, does not without delay give information thereof to his commanding officer, shall suffer such punishment as a court-martial may direct.

(13) Every officer shall have power to part and quell all quarrels, frays, and disorders, whether among persons belonging to his own or to another organization and to order officers who take part in the same into arrest, and enlisted men who take part in the same into confinement, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or draws a weapon upon him, shall be punished as a court-martial may direct.

(14) Any enlisted man who thinks himself wronged by any officer may complain to the immediate commander of said officer, who shall examine into said complaint and take proper measures.

(15) Any enlisted man who absents himself from duty without leave shall be punished as a military court may direct.

(16) Any officer or enlisted man who fails, except when prevented by sickness or other necessity, to repair at the fixed time to the appointed place of parade, exercise or other rendezvous, or goes from the same without leave, before he is dismissed or relieved, shall be punished as a military court may direct.

(17) No enlisted man shall hire another to do his duty for him, or be excused from duty, except in cases of sickness, disability, or



leave of absence. Every enlisted man found guilty of hiring his duty, and the person so hired to do another's duty, shall be punished as a military court may direct.

(18) Every non-commissioned or petty officer who connives at such hiring of duty shall be reduced. Every officer who knows and allows such practices shall be punished as a court-martial may direct.

(19) Any officer who is found drunk on duty shall be dismissed from the service. Any enlisted man who so offends shall suffer such punishment as a court-martial may direct.

(20) Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer such punishment as a court-martial may direct.

(21) Any officer who by any means whatsoever, occasions false alarms in camp, garrison, or quarters, shall suffer such punishment as a court-martial may direct.

(22) Any officer or enlisted man who misbehaves himself before the enemy, runs away, or shamefully abandons any fort, post, or guard which he is commanded to defend, or speaks words inducing another to do the like or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, shall suffer such punishment as a court-martial may direct.

(23) Any enlisted man who deserts, shall be liable to serve for such period as shall, with the time he may have served previous to desertion, amount to the full term of his enlistment; and such enlisted man shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

(24) Any officer, who having tendered his resignation, quits his post or proper duties, without leave and with intent to remain permanently absent therefrom, prior to due notice of acceptance of the same shall be deemed and punished as a deserter.

(25) Any officer or enlisted man who advises or persuades any other officer or enlisted man to desert shall suffer such punishment as a court-martial may direct.

(26) All officers and enlisted men are to behave themselves orderly in quarters and on the march and whoever commits any waste or spoil or maliciously destroys any property whatsoever belonging to inhabitants of the United States or of the State of South Carolina,

shall, besides such other penalties as he may be liable to by law, be punished as a court-martial may direct.

(27) Any member of the National Guard of South Carolina: (1) who makes or causes to be made any claim against the United States or the State of South Carolina, or any officer thereof, knowing such claim to be false or fraudulent; or (2) who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States or the State of South Carolina or any officer thereof, knowing such claim to be false or fraudulent; or (3) who enters into any agreement or conspiracy to defraud the United States or the State of South Carolina, by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or (4) who, for the purpose of obtaining or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of South Carolina, or against any officer thereof, makes or uses, or procures or advises the making or use of, any writing or other paper, knowing the same to contain any false or fraudulent statement; or (5) who, for the purpose of obtaining or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of South Carolina, or any officer thereof, makes or procures or advises the making of any oath to any fact or to any writing or other paper, knowing such oath to be false; or (6) who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance or payment of any claim against the United States or the State of South Carolina, or any officer thereof, forges or counterfeits, or procures other paper or uses, or procures or advises the use of any such signature, knowing the same to be forged or counterfeited; or (7) who, having charge, possession, custody, or control, of any money or other property of the United States or of the State of South Carolina, furnished or intended for the military service thereof knowingly delivers, or causes to be delivered to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or (8) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State of South Carolina, furnished or intended for the military service thereof makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained, and with intent to defraud the United States or the State of South Carolina; or (9) who, steals, em-



bezzles, knowingly and wilfully misappropriates or applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, ammunition, equipment, clothing subsistence, stores, money or other property of the United States or of the State of South Carolina furnished or intended for the military service thereof; or (10) who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any enlisted man, officer or other person who is a part of or employed in said forces or services, any ordnance, arms, equipment, ammunition, clothing, subsistence, stores, or other property of the United States or the State of South Carolina, such enlisted man, officer, or other person not having lawful right to sell or pledge the same shall on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial may direct or by all of said penalties. And, if any person having committed any of the offenses aforesaid while a member of the National Guard of South Carolina, receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial, in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

(28) Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

(29) All crimes not capital and all disorders and neglects, of which officers and enlisted men may be guilty, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles, may be taken cognizance of by a military court, as provided herein, according to the nature and degree of the offense, and punished at the discretion of such court.

(30) When an officer is put in arrest for the purposes of trial, the officer by whose order he is arrested shall see that a copy of the charge on which he is to be tried is served upon him within one day after his arrest, and that he is brought to trial within twenty days thereafter unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said twenty days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease. Any officer released from arrest under the provision of this article may be tried whenever the exigencies of the service shall permit, within twelve months after such release from arrest.



(31) For each general or special court-martial of the National Guard the Governor shall appoint a judge advocate.

(32) When the requisite number of officers to form a general court-martial is not present at any station or detachment the Governor shall in cases which require the cognizance of such court, thereupon order a court to be assembled at the nearest place where such trial can be conveniently held, and shall order the accused, with necessary witnesses, to be transported to the place where the said court shall be assembled.

(33) Officers shall be tried only by general courts-martial.

(34) The judge advocate of a general or special court-martial shall administer to the members of the court, before they proceed upon any trial, the following oath or affirmation: "Do you, A. B., swear (or affirm) that you will well and truly try and determine, according to the evidence, the matter now before you between the State of South Carolina and the person to be tried, and that you will duly administer justice, without partiality, favor, or affection according to the provisions of the rules and articles for the government of the National Guard of the State of South Carolina, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases and do you further swear (or affirm) that you will not divulge the findings or sentence of the court until they shall be published by the proper authority, except to the judge advocate; will you not disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God."

(35) When the oath or affirmation has been administered to the members of a general or special court-martial, the president of the court shall administer to the judge advocate, an oath or affirmation in the following form: "Do you, A. B., swear (or affirm) that you will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed by the same. So help you God." All persons who give evidence before a court-martial shall be examined on oath or affirmation in the following form: "Do you swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God." Every reporter of the pro-



ceedings of a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: "Do you swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God." Every interpreter in the trial of any case before a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: "Do you swear (or affirm) that you will truly interpret in the case now in hearing. So help you God." In case of affirmation the closing sentence of adjuration will be omitted.

(36) A military court may punish at its discretion, any person who uses any menacing words, signs, or gestures, in its presence, or who disturbs its proceedings by riot or disorder.

(37) All members of a court-martial are to behave with decency and calmness.

(38) Members of a court-martial may be challenged by a prisoner but only for cause stated to the court. The court shall determine the relevancy and validity thereof and shall not receive a challenge to more than one member at a time.

(39) When a prisoner, arraigned before a military court, from obstinacy and deliberate design, stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had pleaded not guilty.

(40) The judge advocate shall prosecute in the name of the State of South Carolina, but when the prisoner has made his plea, he shall so far consider himself counsel for the prisoner as to object to any leading question to any witness, and to any question to the prisoner the answer to which might tend to incriminate him.

(41) All persons who give evidence before a military court shall be examined on oath, or affirmation, in the following form: "Do you swear (or affirm) that the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

(42) A court-martial shall, for reasonable cause, grant a continuance to either party, for such time, and as often as may appear to be just.

(43) Members of a court-martial, in giving their votes, shall begin with the youngest in commission.



(44) When a court-martial suspends an officer from command it may also suspend his pay and emoluments for the same time, according to the nature of his offense.

(45) No person shall be tried a second time for the same offense.

(46) No person shall be liable to be tried and punished by a military court for any offense which appears to have been committed more than two years before the issuance of the order for such trial, unless by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

(47) No sentence of a general court-martial shall be carried into execution until the same shall have been approved by the Governor.

(48) Every judge advocate, or person acting as such, at any general court-martial, shall, with as much expedition as the opportunity of time and distance or place may admit, forward the original proceedings and sentence of such court to the adjutant general.

(49) Every person tried by a general court-martial shall, upon proper demand therefor be entitled to a copy of the proceedings and sentences of such court.

(50) A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against, any officer or enlisted man may be ordered by the Governor or by the Adjutant General of the State of South Carolina.

(51) The recorder or judge advocate of a court of inquiry shall administer to the members the following oath: "Will you well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God." After which the president of the court shall administer to the recorder or judge advocate the following oath: "Do you, A. B., swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

(52) A court of inquiry, and the recorder or judge advocate thereof, shall have the same power to summon and examine witnesses as is given to general courts-martial and the judge advocate thereof. Such witnesses shall take the same oath which is taken by witnesses before general courts-martial, and the party accused shall be per-



mitted to examine and cross-examine them, so as fully to investigate the circumstances in question.

(53) A court of inquiry shall not give an opinion on the merits of the case inquired of unless specifically ordered to do so.

(54) The proceedings of a court of inquiry must be authenticated by the signatures of the recorder or judge advocate and the president thereof and delivered to the Adjutant General or convening authority.

(55) The proceedings of a court of inquiry may be admitted as evidence by a military court, in cases not extending to the dismissal of an officer; PROVIDED, that the circumstances are such that oral testimony cannot be obtained.

(56) If, upon marches, guards, or in quarters, different organizations of the National Guard of South Carolina happen to join or do duty together, the officer highest in rank of the line by commission, there on duty or in quarters, shall command the whole, and give orders for what is needful in the service unless otherwise specially directed by the Governor, according to the nature of the case.

(57) In case of death of any enlisted man, his commanding officer shall immediately secure all his effects then in camp or quarters, and shall, in the presence of two other officers, make an inventory thereof, which he shall transmit to the office of the Adjutant General.

**SECTION 70: Additional provisions effective when militia on duty—infliction of punishment.**—Whenever any portion of the militia of the State shall be on duty under or pursuant to orders of the Governor, or whenever any part of the militia shall be ordered to assemble for duty in time of war, insurrection, invasion or imminent danger thereof, breach of the peace, tumult, riot, public danger or resistance to process, the articles of war and regulations for the government of the army of the United States so far as applicable and not in conflict with any rule or regulation herein prescribed, and such modifications as the Governor may prescribe, shall be considered in force and regarded as a part of this article until such forces shall be duly relieved from such duty. No punishment under this section, extending to the taking of life, shall in any case be inflicted except in time of actual war, invasion or insurrection declared to exist by proclamation of the President of the United States or by the Governor of this State, and then only after the approval of such sentence by the Governor.

**SECTION 71: Regulations for use of real property—leasing of property.**—The commander-in-chief shall promulgate in general orders such regulations for the use of armories, rifle ranges, and other real property owned or leased by the State for military purposes as may be proper; PROVIDED, that no armory shall be used for any other than a strictly military purpose without the recommendation of the officer in charge thereof, approved by the Adjutant General, who is the State Custodian of armories; PROVIDED, that all armories and rifle ranges and all property, real or personal, used by the National Guard and not owned by the State of South Carolina or the United States, shall be leased or rented to this State upon such terms and conditions as shall be approved by the commander-in-chief.

**SECTION 72: Penalties for enlisted man appropriate government property from an armory.**—Any enlisted man taking any government property from an armory without the written consent of his company commander shall be considered as appropriating government property to his own use and may be tried in any court of competent jurisdiction and on conviction thereof shall suffer a fine in any sum, not exceeding One Hundred (\$100.00) Dollars, together with the cost of such government property, or imprisonment in the county jail for a period not exceeding sixty days, or shall suffer both such fine and imprisonment.

**SECTION 73: Rules and regulations Governor may promulgate.**—The Governor shall promulgate in general orders such rules and regulations and amendments hereto not inconsistent with law as he may deem necessary.

**SECTION 74: Wearing or use of military order badge, button, etc.**—Any person who shall wilfully wear the badge, button, insignia or rosette of any military order, or who shall use any such badge, button, insignia or rosette to obtain aid or assistance or any other benefit or advantage unless he shall be entitled so to wear or use the same shall be guilty of a misdemeanor.

**SECTION 75: Not alter U. S. flag or display same altered—not mutilate or defy it.**—Every person who, for exhibition or display shall cause to be placed upon or affixed to any flag, standard, color or ensign of the United States, or upon a flag, standard, color or ensign purporting to be such, any inscription, design, device, symbol,



name, advertisement, words, characters, picture, mark or notice whatever is affixed; or shall display or exhibit any such flags, standard, color or ensign to which any such inscription, design, device, symbol, name, advertisement, word, characters, photographs, mark or notice whatever; or who shall publicly mutilate, trample upon, deface, jeer at or defy any such flag, standard, color or ensign shall be guilty of a misdemeanor.

**SECTION 76: Effect on military organizations in Charleston County.**—Nothing herein contained shall interfere with or affect any franchise or corporate right held by any military organization, or organizations, of the city or county of Charleston; nor shall it affect the levy of taxes within the county of Charleston for the maintenance and support of any military organization thereof.

**SECTION 77: Commission certain personnel of The Citadel officers in unorganized militia.**—All members of the Board of Visitors, administrative staff, and faculty personnel of The Citadel, the Military College of South Carolina, shall be eligible to be commissioned officers in the unorganized militia of South Carolina and the Governor is authorized and directed to issue commissions to such of them as are designated by The Citadel according to the rank prescribed by that institution. These commissions shall be prepared by the Adjutant General and shall bear the signatures of the Adjutant General and the Governor together with the Seal of the State and shall not entitle any person holding the same to any pay or emolument by reason thereof unless he be assigned to duty with the South Carolina National Guard by order of the Governor. In the event of such assignment the rank of such officer shall be junior to that of all other officers of the same grade of the South Carolina National Guard. The same rules and regulations provided for commissioned officers of the South Carolina National Guard shall be applicable to all officers commissioned under this section; PROVIDED, that nothing in this Act shall be in conflict with Section 5776, Laws of South Carolina.

**SECTION 78: Armory sites.**—The Adjutant General of this State is hereby authorized and empowered to receive on behalf of the State of South Carolina conveyances of sites of real property suitable for the erection of national guard armories; PROVIDED, HOWEVER, that in accepting all such conveyances on behalf of the State



of South Carolina the State shall incur no liability for the purchase of said real estate.

**SECTION 79: State Guard established.**—A South Carolina State Guard is hereby established.

**SECTION 80: Organize and maintain.**—Whenever any part of the National Guard of this State is ordered into federal service so as to cause the State to be, in the opinion of the Governor, without proper defense, the Governor is hereby authorized to organize and maintain within the State during such period, and under such regulations as the secretary of war may prescribe for discipline in training, such military force as the Governor may deem necessary. The Governor is authorized to reduce the number of men in such military force, or disband such force at any time he deems proper. Such force shall be composed of officers, commissioned or assigned, and such abled-bodied male citizens of the State as shall volunteer for service therein. Such force shall be additional to, and distinct from the National Guard and shall be known as the South Carolina State Guard. Such force may be uniformed as the Governor may prescribe.

**SECTION 81: Rules and regulations—duties of Adjutant General.**—The Governor is hereby authorized to prescribe rules and regulations consistent with the provisions of this article governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such force; PROVIDED, HOWEVER, such rules and regulations in so far as he deems practicable and desirable shall conform to the existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder; PROVIDED, FURTHER, that the duties of the Adjutant General in connection with the South Carolina State Guard shall be the same as those prescribed for him by Section 18, Code of Laws of South Carolina, 1950, with respect to the National Guard.

**SECTION 82: Pay.**—When members of the South Carolina State Guard are ordered to active duty by the Governor, or by his authority, they shall receive the same pay as specified for officers and enlisted men of the National Guard when called out for such service.

**SECTION 83: Property and facilities use.**—For the use of such force, the Governor is hereby authorized to requisition from the sec-



retary of war such arms and equipment as may be in possession of, and can be spared by, the war department, and make available to such force the facilities of state armories and their equipment and such other state premises and property as may be available.

**SECTION 84: Order into active service—authority of officers.—**

The Governor shall have the power in case of insurrection, invasion, tumult, riot, breach of the peace, or imminent danger thereof, or to enforce the laws of this State, to order into service any part of the South Carolina State Guard that he may deem necessary. When the South Carolina State Guard is on active service, the commanding officer and his subordinate shall be, and they are hereby, invested with all the authority of sheriffs and deputy sheriffs in enforcing the laws of this State.

**SECTION 85: Service out of State—disposition of enemy captured.—**

Such force shall not required to serve outside the boundaries of this State except: (1) upon the request of the Governor of another State, the Governor this State may, in his discretion, order any portion of, or all, of such force to assist the military or police force of such other States who are actually engaged in defending such State. Such force may be recalled by the Governor at his discretion. Any service so rendered to any other State shall not be at the expense of South Carolina. (2) Any organization, unit or detachment of such force, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this State into another State until they are apprehended or captured by such organization, unit or detachment or until the military or police force of the other State or the force of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons: PROVIDED, HOWEVER, that such pursuit is not authorized unless such other State shall have given the authority by law for such pursuit by such force of this State. Any such persons who shall be apprehended or captured in such other State by an organization, unit or detachment of the force of this State shall without unnecessary delay be surrendered to the military or police force of the State in which they are taken, or to the United States. The surrender of insurrectionists or saboteurs to the military or police force of such other State shall not constitute a waiver by this State

of its rights to extradite or prosecute such insurrectionists or saboteurs for any crime committed in this State.

**SECTION 86: Nonresident military force pursue and capture enemy here—disposition.**—Any military force or organization, unit or detachment thereof, of any other State who are fresh in pursuit of insurrectionists, saboteurs, enemies or enemy force may continue such pursuit into this State until the military or police force of this State or the force of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such insurrectionists, saboteurs, enemies or enemy force, and are hereby authorized to arrest or capture such persons within this State while in fresh pursuit. Any such person who shall be captured or arrested by the military of such other State while in this State shall without unnecessary delay be surrendered to the military or police force of this State or to the United States, to be dealt with according to law. This Section shall not be construed as to make unlawful any arrests in this State which would otherwise be lawful, and nothing contained in this Section shall be deemed to repeal any of the provisions of the Uniform Act on the Fresh Pursuit of Criminals.

**SECTION 87: Liability for U. S. military service.**—Nothing in this article shall be construed as authorizing such force, or any part thereof, to be called, ordered or in any manner drafted, as such into the military service of the United States, but no person shall by reason of his enlistment or commission in any such force be exempted from military service under any law of the United States.

**SECTION 88: Not enlist organization as unit.**—No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such force as an organization or unit.

**SECTION 89: Persons commission or enlist.**—No person shall be commissioned or enlisted in such force who is not a citizen of the United States or has been expelled or dishonorably discharged from any military or naval organization of this State or of another State, or of the United States; PROVIDED, HOWEVER, that in carrying out the provisions of this article preference shall be accorded veterans of former wars so far as may be consistent with the public interests.

**SECTION 90: Officer's oath.**—The oath to be taken by officers commissioned in such force shall be substantially in the form pre-



scribed for offices of the National Guard substituting the words "South Carolina State Guard" where necessary.

**SECTION 91: Term of enlistment—oath.**—No person shall be enlisted for more than one year, but such enlistment may be renewed. The oath to be taken upon enlistment in such force shall be substantially in the form prescribed for enlisted men of the National Guard, substituting the words "South Carolina State Guard" where necessary.

**SECTION 92: Resignation—discharge.**—The Governor is authorized to accept the resignation of any officer or to grant a discharge to any enlisted man at any time in his discretion.

**SECTION 93: Courts-martial—arrest.**—Whenever such force, or any part thereof shall be ordered out for active service, the provisions of law governing the National Guard of this State relating to courts-martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder, shall be in full force and effect. No officer or enlisted man of such force shall be arrested on any warrant, except for treason or felony, while going to, remaining at or returning from a place where he is ordered to attend for military duty.

**SECTION 94: Invalidity—separability.**—If any provision of this article or the application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provisions or application and, to this end, the provisions of this article are declared to be severable.

**SECTION 95. Same**—If any clause, sentence, paragraph, or section of this sub-title shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof so found unconstitutional and invalid.

South Carolina National Guard in the City of Charleston.

**SECTION 96: The Board of Officers of South Carolina National Guard in the City of Charleston.**—The corporation heretofore known as the "Board of Field Officers of the Fourth Brigade, South



Carolina Militia," and subsequently as the "Board of Field Officers, Fourth Brigade, South Carolina Volunteer Troops," and subsequently thereto as "The Board of Officers of South Carolina Volunteer Troops in the City of Charleston," shall hereafter be known and styled "The Board of Officers of South Carolina National Guard in the City of Charleston," and shall consist of a colonel or other officer in the City of Charleston commanding the troops hereafter mentioned, and the commanding officers of the following companies now forming a part of the National Guard of the State of South Carolina within the limits of the city of Charleston, to wit: The German Fusileers, Irish Volunteers, Washington Light Infantry, German Artillery, Lafayette Artillery, Sumter Guards and Palmetto Guards, and of such one or more of them as shall continue to exist.

The said corporation so composed shall continue to be and shall be a body politic and corporate, for the purpose of holding all property, both real and personal, now owned or hereafter to be acquired by the said corporation for the benefit of the companies hereinbefore designated.

The said corporation, so composed, shall continue to take, purchase and hold property, both real and personal, for the benefit of the companies hereinbefore designated, and the same to pledge, sell and transfer from time to time on such terms and under such conditions, and subject to such regulations as may be prescribed by said corporation.

All of the property, real and personal, choses in action and assets of the corporation created by the Act of January 4, 1894, and its predecessors is hereby vested in the corporation hereby created as the successor of the said several corporations; PROVIDED, HOWEVER, that the property known as Marion Square, otherwise called the Citadel Green, now vested in said corporation as constituted by this article, shall forever be kept by it as a place for the military exercises of the companies hereinbefore designated; AND PROVIDED, FURTHER, that the corps of cadets of the State Military College shall have the right to use the said Marion Square, otherwise called the Citadel Green, as a place for military exercise, and recreation, under such regulations as may be prescribed by the Board of Visitors thereof.

The said corporation, hereby created, shall have a common seal, and shall have the right to sue and be sued in the courts of this State.



The said corporation, hereby constituted, is hereby declared, re-organized and confirmed as the successor of the original corporators; and all Acts done by them or by any persons heretofore acting as successors of said original corporations in their corporate capacity as field officers of the Fourth Brigade in their several said corporate capacities, are hereby confirmed.

**SECTION 97: Tax levy for benefit—use—report.**—The County Board of Commissioners of Charleston County are hereby authorized and directed to levy an annual tax of one-eighth ( $1/8$ ) of one mill on all the taxable property in the city of Charleston, the same to be collected by the County Treasurer of Charleston County, for the benefit of, and to be paid over to, the board of officers of South Carolina National Guard in the city of Charleston. The funds arising from the said levy shall be distributed by the said board among the companies of the said South Carolina National Guard in the city of Charleston, and the Charleston Light Dragoons in proportion to the average attendance of such drills and parades, as may be designated by the said board. The moneys thus appropriated shall be expended by said companies only for the purchase of arms, ammunition, equipment and uniforms and for such other expenses as may be necessary for the military efficiency of the said companies; and the company commander shall, on the 15th day of September of each year, make a full report of the said expenditures to the commanding officer of the South Carolina National Guard in the city of Charleston, who shall forward the same to the Adjutant General.

Approved the 3rd day of March, 1950.

(R1079, H2312)

**Act No. 896 Acts of 1950**

**AN ACT** Relating To The Establishment Of A Civil Defense Agency And Other Organizations For Civil Defense Within The State And Prescribing The Powers And Duties Thereof, And Providing The Necessary Funds Therefor.

BE IT ENACTED by the General Assembly of the State of South Carolina:

**SECTION 1: South Carolina Civil Defense Act.**—This Act may be cited as the "South Carolina Civil Defense Act."

**SECTION 2: Establish state and local civil defense plans.**—There is hereby created a Civil Defense Agency for the purpose of establishing a civil defense plan for the State of South Carolina and for the establishment of local civil defense plans and for the coordination of the State and local defense plans. The plan shall provide for the possibility of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, fire, flood, earthquake, or other natural causes and insure preparedness of this State to adequately deal with such disasters; and generally to provide for the common defense, protect the public peace, health and safety of lives and property of the State.

**SECTION 3: Director of Civil Defense—personnel—expenditures—facilities.**—The Adjutant General of South Carolina is designated the Ex-Officio Director of Civil Defense.—(a) The Director may employ a Deputy Director and such technical, clerical, stenographic and other personnel and fix their compensation, and may make such expenditures within the appropriation therefor, or from other funds made available to him for purposes of civil defense, as may be necessary to carry out the purposes of this Act.

(b) The Deputy Director and other personnel of the Civil Defense Agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery, printing, etc., in the same manner as provided for the Adjutant General's Office or any other State agency.

**SECTION 4: Duties and powers of director.**—The Director shall be the executive head of the Civil Defense Agency and shall be responsible to the Governor for carrying out the program for civil defense of the State. He shall coordinate the activities of all organi-



zations for civil defense within the State, and shall maintain liaison with and cooperate with civil defense agencies and organizations of other States and of the Federal Government, and shall have such additional authority, duties, and responsibilities authorized by this Act.

**SECTION 5: Municipalities establish local organizations for civil defense—chairmen.**—Each municipality of the State is hereby authorized and directed to establish a local organization for civil defense in accordance with the State Civil Defense Plan and Program. Each local organization for civil defense shall have a Chairman, who shall be appointed by the Director of Civil Defense. Insofar as applicable, local organizations shall have the same power and duties within their respective jurisdictions as are vested in the Director.

**SECTION 6: Repeal.**—All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

**SECTION 7: Invalidity.**—If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 8: Director report.**—The Director shall make a detailed report of the activities of the South Carolina Civil Defense Agency and report its expenditures annually to the General Assembly, as is prescribed for other agencies of the State Government.

**SECTION 9: Appropriation.**—There is hereby appropriated the sum of Ten Thousand (\$10,000.00) Dollars, or so much thereof as may be necessary for the Director to carry out the purposes of this Act.

**SECTION 10: Time effective.**—This Act shall take effect upon approval by the Governor.

Approved the 6th of May, 1950.